



Senate

General Assembly

File No. 336

February Session, 2018

Substitute Senate Bill No. 377

Senate, April 9, 2018

The Committee on Insurance and Real Estate reported through SEN. LARSON of the 3rd Dist. and SEN. KELLY of the 21st Dist., Chairpersons of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT AUTHORIZING AGENCY CAPTIVE INSURANCE COMPANIES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective July 1, 2018*) An agency captive insurance
2 company may be incorporated as (1) a stock insurer with its capital
3 divided into shares and held by the stockholders, (2) a nonprofit
4 corporation with one or more members, or (3) a manager-managed
5 limited liability company.

6 Sec. 2. (NEW) (*Effective July 1, 2018*) (a) No agency captive insurance
7 company may transact insurance business in this state unless:

8 (1) Each insurance agent or insurance producer that owns or
9 controls the company is, and remains, licensed in good standing in this
10 state under sections 38a-702a to 38a-702r, inclusive, of the general
11 statutes, and in all other states in which the insurance agent or
12 insurance producer is licensed;

13 (2) The company (A) insures only against the risks of commercial
14 policies that are placed by or through an insurance agent or producer
15 described in subdivision (1) of this subsection, (B) does not insure
16 against risks of any health insurance policy or plan, and (C) submits to
17 the Insurance Commissioner, in a manner specified by the
18 commissioner, the form of commercial policies described in
19 subparagraph (A) of this subdivision if the commissioner, in the
20 commissioner's discretion, requires that the company submit such
21 policies to the commissioner;

22 (3) The company discloses, in writing and in a form and manner
23 prescribed by the Insurance Commissioner, to each policy holder
24 under a policy described in subparagraph (A) of subdivision (2) of this
25 subsection any limitations, rights and obligations that such company
26 holds, or is subject to, as a result of its affiliation with an insurance
27 agent or insurance producer described in subdivision (1) of this
28 subsection; and

29 (4) All risks insured or reinsured by the company are, if required by
30 the Insurance Commissioner, (A) fronted by an insurance company or
31 reinsurance company authorized by the commissioner to conduct the
32 type of insurance business or reinsurance business in this state that the
33 agency captive insurance company insures or reinsures, (B) reinsured
34 by a reinsurance company licensed to conduct reinsurance business in
35 this state, or (C) secured by a trust established in the United States for
36 the benefit of policy holders and claimants, or funded by an
37 irrevocable letter of credit or other arrangement approved by the
38 commissioner.

39 (b) The Insurance Commissioner may require an agency captive
40 insurance company to increase the funding of any security
41 arrangement described in subdivision (4) of subsection (a) of this
42 section. If the form of security arrangement is a letter of credit, the
43 letter of credit shall be issued or confirmed by a bank approved by the
44 commissioner. A trust described in subparagraph (C) of subdivision
45 (4) of subsection (a) of this section shall be established in a form and

46 upon terms approved by the commissioner.

47 Sec. 3. Section 38a-91aa of the general statutes is repealed and the
48 following is substituted in lieu thereof (*Effective July 1, 2018*):

49 As used in sections 38a-91aa to 38a-91tt, inclusive, as amended by
50 this act, and sections 1 and 2 of this act:

51 (1) "Affiliated company" means any company in the same corporate
52 system as a parent, an industrial insured or a member organization by
53 virtue of common ownership, control, operation or management.

54 (2) "Agency captive insurance company" means a captive insurance
55 company that:

56 (A) Is owned or directly or indirectly controlled by one or more
57 insurance agents or insurance producers licensed in accordance with
58 sections 38a-702a to 38a-702r, inclusive;

59 (B) Only insures against risks covered by insurance policies sold,
60 solicited or negotiated through the insurance agents or insurance
61 producers that own or control such captive insurance company; and

62 (C) Does not insure against risks covered by any health insurance
63 policy or plan.

64 [(2)] (3) "Alien captive insurance company" means any insurance
65 company formed to write insurance business for its parent and
66 affiliated companies and licensed pursuant to the laws of an alien
67 jurisdiction that imposes statutory or regulatory standards on
68 companies transacting the business of insurance in such jurisdiction
69 that the commissioner deems to be acceptable.

70 [(3)] (4) "Association" means any legal association of individuals,
71 corporations, limited liability companies, partnerships, associations or
72 other entities that has been in continuous existence for at least one
73 year, where the association itself or some or all of the member
74 organizations:

75 (A) Directly or indirectly own, control or hold with power to vote all
76 of the outstanding voting securities or other voting interests of an
77 association captive insurance company incorporated as a stock insurer;

78 (B) Have complete voting control over an association captive
79 insurance company incorporated as a mutual corporation or formed as
80 a limited liability company; or

81 (C) Constitute all of the subscribers of an association captive
82 insurance company formed as a reciprocal insurer.

83 [(4)] (5) "Association captive insurance company" means any
84 company that insures risks of the member organizations of an
85 association, and includes a company that also insures risks of such
86 member organizations' affiliated companies or of the association.

87 [(5)] (6) "Branch business" means any insurance business transacted
88 in this state by a branch captive insurance company.

89 [(6)] (7) "Branch captive insurance company" means any alien
90 captive insurance company licensed by the commissioner to transact
91 the business of insurance in this state through a business unit with a
92 principal place of business in this state.

93 [(7)] (8) "Branch operations" means any business operations in this
94 state of a branch captive insurance company.

95 [(8)] (9) "Captive insurance company" means any (A) pure captive
96 insurance company, association captive insurance company, industrial
97 insured captive insurance company, risk retention group, sponsored
98 captive insurance company or special purpose financial captive
99 insurance company that is domiciled in this state and formed or
100 licensed under the provisions of sections 38a-91aa to 38a-91tt,
101 inclusive, as amended by this act, or (B) branch captive insurance
102 company.

103 [(9)] (10) "Ceding insurer" means an insurance company, approved
104 by the commissioner and licensed or otherwise authorized to transact

105 the business of insurance or reinsurance in its state or country of
106 domicile, that cedes risk to a special purpose financial captive
107 insurance company pursuant to a reinsurance contract.

108 [(10)] (11) "Commissioner" means the Insurance Commissioner.

109 [(11)] (12) "Controlled unaffiliated business" means any person:

110 (A) Who, (i) in the case of a pure captive insurance company, is not
111 in the corporate system of a parent and the parent's affiliated
112 companies, or (ii) in the case of an industrial insured captive insurance
113 company, is not in the corporate system of an industrial insured and
114 the industrial insured's affiliated companies;

115 (B) Who, (i) in the case of a pure captive insurance company, has an
116 existing contractual relationship with a parent or one of the parent's
117 affiliated companies, or (ii) in the case of an industrial insured captive
118 insurance company, has an existing contractual relationship with an
119 industrial insured or one of the industrial insured's affiliated
120 companies; and

121 (C) Whose risks are managed by a pure captive insurance company
122 or an industrial insured captive insurance company, as applicable, in
123 accordance with section 38a-91qq.

124 [(12)] (13) "Excess workers' compensation insurance" means, in the
125 case of an employer that has insured or self-insured its workers'
126 compensation risks in accordance with applicable state or federal law,
127 insurance in excess of a specified per-incident or aggregate limit
128 established by the commissioner.

129 [(13)] (14) "Incorporated protected cell" means a protected cell that is
130 established as a corporation or a limited liability company, separate
131 from the sponsored captive insurance company with which it has
132 entered into a participant contract.

133 [(14)] (15) "Industrial insured" means an insured:

134 (A) Who procures the insurance of any risk or risks by use of the
135 services of a full-time employee acting as an insurance manager or
136 buyer;

137 (B) Whose aggregate annual premiums for insurance on all risks
138 total at least twenty-five thousand dollars; and

139 (C) Who has at least twenty-five full-time employees.

140 [(15)] (16) "Industrial insured captive insurance company" means
141 any company that insures risks of the industrial insureds that comprise
142 an industrial insured group, and includes a company that also insures
143 risks of such industrial insureds' affiliated companies.

144 [(16)] (17) "Industrial insured group" means any group of industrial
145 insureds that collectively:

146 (A) Directly or indirectly own, control or hold with power to vote all
147 of the outstanding voting securities or other voting interests of an
148 industrial insured captive insurance company incorporated as a stock
149 insurer;

150 (B) Have complete voting control over an industrial insured captive
151 insurance company incorporated as a mutual corporation or formed as
152 a limited liability company; or

153 (C) Constitute all of the subscribers of an industrial insured captive
154 insurance company formed as a reciprocal insurer.

155 [(17)] (18) "Insurance securitization" or "securitization" means a
156 transaction or a group of related transactions, which may include
157 capital market offerings, that are effected through related risk transfer
158 instruments and facilitating administrative agreements, in which all or
159 part of the result of such transaction is used to fund a special purpose
160 financial captive insurance company's obligations under a reinsurance
161 contract with a ceding insurer and by which:

162 (A) A special purpose financial captive insurance company directly

163 or indirectly obtains proceeds through the issuance of securities by
164 such company or any other person; or

165 (B) A person provides, for the benefit of a special purpose financial
166 captive insurance company, one or more letters of credit or other assets
167 that the commissioner has authorized such company to treat as
168 admitted assets for purposes of its annual report. "Insurance
169 securitization" or "securitization" does not include the issuance of a
170 letter of credit for the benefit of the commissioner to satisfy all or part
171 of a special purpose financial captive insurance company's capital and
172 surplus requirements under section 38a-91dd, as amended by this act.

173 [(18)] (19) "Member organization" means any individual,
174 corporation, limited liability company, partnership, association or
175 other entity that belongs to an association.

176 [(19)] (20) "Mutual corporation" means a corporation organized
177 without stockholders and includes a nonprofit corporation with
178 members.

179 [(20)] (21) "Parent" means any individual, corporation, limited
180 liability company, partnership or other entity that directly or indirectly
181 owns, controls or holds with power to vote more than fifty per cent of
182 the outstanding voting:

183 (A) Securities of a pure captive insurance company organized as a
184 stock insurer; or

185 (B) Membership interests of a pure captive insurance company
186 organized as a nonprofit corporation or as a limited liability company.

187 [(21)] (22) "Participant" means any association, corporation, limited
188 liability company, partnership, trust or other entity, and any affiliated
189 company thereof, that is insured by a sponsored captive insurance
190 company pursuant to a participant contract.

191 [(22)] (23) "Participant contract" means a contract entered into by a
192 sponsored captive insurance company and a participant by which the

193 sponsored captive insurance company insures the risks of the
194 participant and limits the losses of each such participant to its pro rata
195 share of the assets of one or more protected cells identified in such
196 participant contract.

197 [(23)] (24) "Protected cell" means a separate account established by a
198 sponsored captive insurance company, in which assets are maintained
199 for one or more participants in accordance with the terms of one or
200 more participant contracts to fund the liability of the sponsored
201 captive insurance company assumed on behalf of such participants as
202 set forth in such participant contracts.

203 [(24)] (25) "Pure captive insurance company" means any company
204 that insures risks of its parent and affiliated companies or controlled
205 unaffiliated business.

206 [(25)] (26) "Reinsurance contract" means a contract entered into by a
207 special purpose financial captive insurance company and a ceding
208 insurer by which the special purpose financial captive insurance
209 company agrees to provide reinsurance to the ceding insurer for risks
210 associated with the ceding insurer's insurance or reinsurance business.

211 [(26)] (27) "Risk retention group" means a captive insurance
212 company organized under the laws of this state pursuant to the federal
213 Liability Risk Retention Act of 1986, 15 USC 3901 et seq., as amended
214 from time to time, as a stock insurer or mutual corporation, a
215 reciprocal or other limited liability entity.

216 [(27)] (28) "Security" has the same meaning as provided in section
217 36b-3 and includes any form of debt obligation, equity, surplus
218 certificate, surplus note, funding agreement, derivative or other
219 financial instrument that the commissioner designates as a security for
220 purposes of sections 38a-91aa to 38a-91tt, inclusive, as amended by this
221 act.

222 [(28)] (29) "Special purpose financial captive insurance company"
223 means a company that is licensed by the commissioner in accordance

224 with section 38a-91bb.

225 [(29)] (30) "Special purpose financial captive insurance company
226 security" means a security issued by (A) a special purpose financial
227 captive insurance company, or (B) a third party, the proceeds of which
228 are obtained directly or indirectly by a special purpose financial
229 captive insurance company.

230 [(30)] (31) "Sponsor" means any association, corporation, limited
231 liability company, partnership, trust or other entity that is approved by
232 the commissioner to organize and operate a sponsored captive
233 insurance company and to provide all or part of the required
234 unimpaired paid-in capital and surplus.

235 [(31)] (32) "Sponsored captive insurance company" means a captive
236 insurance company:

237 (A) In which the minimum required unimpaired paid-in capital and
238 surplus are provided by one or more sponsors;

239 (B) That insures risks of its participants only through separate
240 participant contracts; and

241 (C) That funds its liability to each participant through one or more
242 protected cells and segregates the assets of each protected cell from the
243 assets of other protected cells and from the assets of the sponsored
244 captive insurance company's general account.

245 [(32)] (33) "Surplus note" means an unsecured subordinated debt
246 obligation possessing characteristics consistent with the National
247 Association of Insurance Commissioners Statement of Statutory
248 Accounting Principles No. 41, as amended from time to time, and as
249 modified or supplemented by the commissioner.

250 Sec. 4. Subsection (a) of section 38a-91dd of the 2018 supplement to
251 the general statutes is repealed and the following is substituted in lieu
252 thereof (*Effective July 1, 2018*):

253 (a) (1) The Insurance Commissioner shall not issue a license to a
254 captive insurance company or allow the company to retain such
255 license unless the company has and maintains unimpaired paid-in
256 capital and surplus of:

257 (A) In the case of a pure captive insurance company, not less than
258 two hundred fifty thousand dollars;

259 (B) In the case of an association captive insurance company, not less
260 than five hundred thousand dollars;

261 (C) In the case of an industrial insured captive insurance company,
262 not less than five hundred thousand dollars;

263 (D) In the case of a risk retention group, not less than one million
264 dollars;

265 (E) In the case of a sponsored captive insurance company, not less
266 than two hundred twenty-five thousand dollars;

267 (F) In the case of a special purpose financial captive insurance
268 company, not less than two hundred fifty thousand dollars; [and]

269 (G) In the case of a sponsored captive insurance company licensed
270 as a special purpose financial captive insurance company, not less than
271 five hundred thousand dollars; and

272 (H) In the case of an agency captive insurance company, not less
273 than five hundred thousand dollars.

274 (2) (A) The Insurance Commissioner shall not issue a license to a
275 branch captive insurance company or allow the company to retain
276 such license unless the company has and maintains, as security for the
277 payment of liabilities attributable to the branch operations:

278 (i) Not less than two hundred fifty thousand dollars; and

279 (ii) Reserves on such insurance policies or such reinsurance
280 contracts as may be issued or assumed by the branch captive insurance

281 company through its branch operations, including reserves for losses,
 282 allocated loss adjustment expenses, incurred but not reported losses
 283 and unearned premiums with regard to business written through the
 284 branch operations. The commissioner may permit a branch captive
 285 insurance company to credit against any such reserves any security for
 286 loss reserves that the branch captive insurance company posts with a
 287 ceding insurer or is posted by a reinsurer with the branch captive
 288 insurance company, so long as such security remains posted.

289 (B) The amounts required under subparagraph (A) of this
 290 subdivision may be held, with the prior approval of the commissioner,
 291 in the form of (i) a trust formed under a trust agreement and funded
 292 by assets acceptable to the commissioner, (ii) an irrevocable letter of
 293 credit issued or confirmed by a bank approved by the commissioner,
 294 (iii) with respect to the amount required under subparagraph (A)(i) of
 295 this subdivision only, cash on deposit with the commissioner, or (iv)
 296 any combination thereof.

297 Sec. 5. Subparagraph (A) of subdivision (2) of subsection (g) of
 298 section 38a-91ss of the general statutes is repealed and the following is
 299 substituted in lieu thereof (*Effective July 1, 2018*):

300 (A) Proceeds from a special purpose financial captive insurance
 301 company securitization or letters of credit or other assets described in
 302 subdivision [(17)] (18) of section 38a-91aa, as amended by this act;

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2018</i>	New section
Sec. 2	<i>July 1, 2018</i>	New section
Sec. 3	<i>July 1, 2018</i>	38a-91aa
Sec. 4	<i>July 1, 2018</i>	38a-91dd(a)
Sec. 5	<i>July 1, 2018</i>	38a-91ss(g)(2)(A)

INS

Joint Favorable Subst.

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 19 \$	FY 20 \$
Resources of the General Fund	GF - Potential Revenue Gain	See Below	See Below

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill authorizes the establishment of agency captive insurance companies. To the extent that agency captive insurers choose to domicile in the state, the bill results in potential revenue gain to the General Fund from the following fees and taxes:

1. Non-refundable application fee: \$800
2. Fee for initial license: \$375
3. Annual license renewal: \$375
4. Insurance premium taxes (less a non-refundable \$7,500 credit for the captive's first year)

There is no fiscal impact to the Insurance Department for the regulation of agency captive insurers as the Department already has a Captive Division with sufficient capacity to support the anticipated near-term growth.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future.

Sources: Connecticut Insurance Department
Department of Revenue Services Form 207C

OLR Bill Analysis**sSB 377****AN ACT AUTHORIZING AGENCY CAPTIVE INSURANCE COMPANIES.****SUMMARY**

This bill allows licensed insurance agents and producers to establish an agency captive insurance company to insure against risks covered by the policies they sell subject to specified conditions.

Under the bill, an “agency captive insurance company” is a captive insurer that (1) is owned or controlled by licensed insurance agents or producers; (2) only insures against risks covered by insurance policies sold, solicited, or negotiated through its owners or controllers; and (3) does not insure against any risks covered by a health insurance plan. Generally, a captive insurer company is an insurance company formed to insure or reinsure the risks of its owners or parent or affiliated company.

The bill:

1. allows an agency captive insurer to incorporate as (a) a stock insurer with capital divided into shares and held by stockholders, (b) a nonprofit corporation, or (c) a manager-managed limited liability company and
2. requires an agency captive insurer to have and maintain at least \$500,000 in unimpaired paid-in capital and surplus.

EFFECTIVE DATE: July 1, 2018

AGENCY CAPTIVE INSURER REQUIREMENTS

The bill requires an agent or producer that owns or controls an agency captive insurer to be licensed in good standing in Connecticut

and any other state in which he or she is licensed as an agent or producer.

Under the bill, an agency captive insurer must:

1. insure only against commercial policy risks placed by or through one of its owners or controllers;
2. not insure the risks of any health policy or plan; and
3. upon her request, submit to the insurance commissioner the commercial policies it covers.

It must also disclose to each policy holder, in writing and in a form and manner the commissioner prescribes, any limitations, rights, and obligations the captive holds or is subject to as a result of its affiliation with the insurance agents and producers that own or control it.

The bill authorizes the commissioner to require all risks insured or reinsured by an agency captive insurer to be:

1. fronted by a licensed insurer or reinsurer that issues the same type of insurance as the captive;
2. reinsured by a Connecticut-licensed reinsurer; or
3. secured by a trust established in the United States, in a form and upon terms the commissioner approves, for the benefit of policy holders and claimants, or funded by an irrevocable letter of credit from a bank the commissioner approves or another arrangement she approves.

Under the bill, the commissioner may require an agency captive insurer to increase the funding of any of these security arrangements.

COMMITTEE ACTION

Insurance and Real Estate Committee

Joint Favorable Substitute

Yea 21 Nay 0 (03/20/2018)